

FORM NLRB-502
(3-99)UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
PETITION

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

3/6/13

INSTRUCTIONS: Submit an original and 4 copies of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located. If more space is required for any one item, attach additional sheets, numbering them accordingly.

The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

1. PURPOSE OF THIS PETITION (If box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.) (Check One)

- ☒ RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.
- ☐ RM-REPRESENTATION (EMPLOYER PETITION) - One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.
- ☐ RD-DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.
- ☐ UD-WITHDRAWAL OF UNION SHOP AUTHORITY (REMOVAL OF OBLIGATION TO PAY DUES) - Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.
- ☐ UC-UNIT CLARIFICATION - A labor organization is currently recognized by Employer, but Petitioner seeks clarification of placement of certain employees. (Check one) ☐ In unit not previously certified. ☐ In unit previously certified in Case No. _____
- ☐ AC-AMENDMENT OF CERTIFICATION - Petitioner seeks amendment of certification issued in Case No. _____
- Attach statement describing the specific amendment sought.

2. Name of Employer

COUNTRY MEADOW CARE CENTER

Employer Representative to contact

PHIL CRITCHER, ADMINISTRATOR

Telephone Number

419-886-3922

3. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code)

4910 ALGIRE ROAD, BELLEVILLE, OHIO, 44813

Telecopier Number (Fax)

419-886-0098

4a. Type of Establishment (Factory, mine, wholesaler, etc.)

NURSING HOME

4b. Identify principal product or service

NURSING HEALTHCARE

5. Unit involved (in UC petition, describe present bargaining unit and attached description of proposed clarification.)

Included

All Regular Full-Time and Part-Time RNs, PRN's, LPN's & STNA employees employed by the employer at the Employers Belleville, Ohio location.

Excluded

All office clerical, professional employees, managerial employees, guards & supervisors, and all others as defined in the Act.

6a. Number of Employees in Unit:

Present 22

Proposed (By UC/AC)

6b. Is this petition supported by 30% or more of the employees in the unit? ☒ Yes ☐ No

*Not applicable in RM, UC and AC

(If you have checked box RC in 1 above, check and complete EITHER item 7a or 7b, whichever is applicable.)

7a. ☒

Requested for recognition as Bargaining Representative was made on (Date) _____ Petition serves as demand and Employer declined recognition on or about (Date) _____ (If no reply received, so state.)

7b. ☐

Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8. Name of Recognized or Certified Bargaining Agent (If none, so state.)

Affiliation

MAR - 6 2013

Address, Telephone No. and Telecopier No. (Fax)

Date of Recognition or Certification

NLRB
REGION 8

9. Expiration Date of Current Contract. If any (Month, Day, Year)

10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day, and Year)

11a. Is there now a strike or picketing at the Employer's establishment(s) involved? Yes _____ No ☒

11b. If so, approximately how many employees are participating?

11c. The Employer has been picketed by or on behalf of (Insert Name) _____, a labor organization, of (Insert Address) _____ Since (Month, Day, Year) _____

12. Organizations or individuals other than Petitioner (and other than those named in Items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in Item 5 above. (If none, so state.)

Name	Affiliation	Address	Date of Claim	Telecopier No. (Fax)

13. Full name of party filing petition (If labor organization, give full name, including local name and number)

INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54

14a. Address (street and number, city, state, and ZIP code)

135 MERCHANT STREET, SUITE 265
CINCINNATI, OH 45246

14b. Telephone No.

513-772-9310

14c. Telecopier No. (Fax)

513-772-8596

15. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when petition is filed by a labor organization)

INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print)

JAMES D. SMITH

Signature

James D. Smith

Title (if any)

GRAND LODGE REPRESENTATIVE

Telephone No. 513-772-9310

Telecopier No. (Fax) 513-772-8596

Address (street and number, city, state, and ZIP code)

SAME AS 14(a)

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 08
1240 E 9TH ST
STE 1695
CLEVELAND, OH 44199-2086

Agency Website: www.nlrb.gov
Telephone: (216)522-3715
Fax: (216)522-2418

March 7, 2013

James D. Smith, Grand Lodge Representative
International Association of Machinists &
Aerospace Workers, AFL-CIO, District Lodge 54
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Re: Country Meadow Care Center
Case 08-RC-099789

Dear Mr. Smith:

The petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter, explains your right to be represented, requests that you provide certain information, notifies you of a hearing, and discusses some of our procedures including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner ROBERTA MONTGOMERY whose telephone number is (216) 522-8181. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Supervisory Field Examiner NORA F. MCGINLEY whose telephone number is (216) 522-3721.

Immediately upon receipt of the petition, the NLRB conducts an impartial investigation to determine if the NLRB has jurisdiction, if the petition is timely and properly filed, if the showing of interest is adequate, and if there are any other interested parties to the proceeding or other circumstances bearing on the question concerning representation. If appropriate, the NLRB then attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to

information that must be made available to any member of the public under the Freedom of Information Act.

Requested Information: To process the petition in this matter, we need certain information from you. Accordingly, please submit to this office, as soon as possible, the following information:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any addenda or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and address of the representative to whom we should send the election eligibility list. Absent notice to the contrary, we will send the list to the addressee of this letter at the above address.
- (e) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Notice of Hearing: Enclosed is a Notice of Hearing to be conducted on **March 13, 2013** if the parties do not voluntarily agree to an election. If a hearing is necessary, it is expected to run on consecutive days until concluded. The enclosed Form NLRB-4339 provides information about rescheduling the hearing. Requests for postponement of the hearing to a date more than 14 days after the petition was filed will normally not be granted absent extraordinary circumstances.

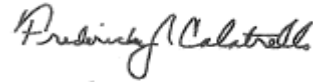
Information for Employees: The NLRB believes that employees should have readily available information about their rights and the proper conduct of employee representation elections. Accordingly, we have asked the Employer to post a Notice to Employees, Form NLRB 5492, which explains employees' basic rights under the National Labor Relations Act. If you would like a copy of that Notice, please let the Board agent know. We have also prepared the pamphlet "Your Government Conducts an Election" which you or the Employer may distribute to employees. The pamphlet is available at www.nlr.gov/news-outreach/brochures or from our office. You may reproduce copies of the Notice and the pamphlet for distribution to employees, provided they are not modified in any way.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the NLRB will continue to accept timely filed paper documents. On all your correspondence regarding the petition, please include the case name and number indicated above.

Information about the NLRB, the procedures we follow in representation cases, and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Frederick J. Calatrello
Regional Director

FJC:cj

Enclosures

1. Notice of Hearing
2. Form 4669
3. Form 4339

cc: Edward J. Kuss, Territory
Organizing Leader
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 4
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Copy of petition only sent to:

Christopher T. Corson, General Counsel
International Association of Machinists &
Aerospace Workers (IAM&AW)
9000 Machinists Place
Upper Marlboro, MD 20772-2687



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 08**



<p>COUNTRY MEADOW CARE CENTER</p> <p>Employer</p> <p>and</p> <p>INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54</p> <p>Petitioner</p>	<p>Case 08-RC-099789</p>
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **March 13, 2013** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located at 1240 E 9th Street, Suite 1695, Cleveland, OH 44199-2086, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony. Form NLRB-4669, *Statement of Standard Procedures in Formal Hearings Held Before The National Labor Relations Board Pursuant to Petitions Filed Under Section 9 of The National Labor Relations Act*, is attached.

Dated: March 7, 2013

Frederick J. Calatrello, Director
National Labor Relations Board
Region 08
1240 E 9th Street, Suite 1695
Cleveland, OH 44199-2086

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

COUNTRY MEADOW CARE CENTER

Employer

and

**INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 54**

Petitioner

Case 08-RC-099789

AFFIDAVIT OF SERVICE OF: Petition dated March 7, 2013, and Notice of Representation Hearing dated March 7, 2013, with Form 4669 attached.

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 7, 2013, I served the above-entitled document(s) by facsimile and regular mail upon the following persons, addressed to them at the following addresses:

James D. Smith, Grand Lodge Representative
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 54
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Edward J. Kuss, Territory Organizing Leader
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 4
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Phil Critcher, Administrator
Country Meadow Care Center
4910 Algire Rd
Bellville, OH 44813-9263

March 7, 2013

Date

Cassandra Carter, Designated Agent of
NLRB

Name



Signature

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE
NATIONAL LABOR RELATIONS BOARD PURSUANT TO PETITIONS FILED
UNDER SECTION 9 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted before a Hearing Officer of the National Labor Relations Board. (R CASES)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance. An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (*Copies of exhibits should be supplied to the Hearing Officer and other parties at the time the exhibit is offered in evidence.*) After the close of the hearing, one or more of the parties may wish to have corrections made in the record. All such proposed corrections, either by way of stipulation or motion, should be forwarded to the Regional Director or to the Board in Washington (*if the case is transferred to the Board*) instead of to the Hearing Officer, inasmuch as the Hearing Officer has no power to make any rulings in connection with the case after the hearing is closed. All matter that is spoken in the hearing room will be recorded by the official reporter while the hearing is in session. In the event that any party wishes to make off-the-record remarks, requests to make such remarks should be directed to the Hearing Officer and not to the official reporter.

Statements of reasons in support of motions or objections should be as concise as possible. Objections and exceptions may, on appropriate request, be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

All motions shall be in writing or, if made at the hearing, may be stated orally on the record and shall briefly state the order of relief sought and the grounds for such motion. An original and two copies of written motions shall be filed with the Hearing Officer and a copy thereof immediately shall be served on the other parties to the proceeding.

The sole objective of the Hearing Officer is to ascertain the respective positions of the parties and to obtain a full and complete factual record on which the duties under Section 9 of the National Labor Relations Act may be discharged by the Regional Director of the Board. It may become necessary for the Hearing Officer to ask questions, to call witnesses, and to explore avenues with respect to matters not raised by the parties. The services of the Hearing Officer are equally at the disposal of all parties to the proceedings in developing the material evidence.

At the close of hearing, any party who desires to file a brief may do so in the appropriate manner described below.

1. Briefs filed with the Regional Director

Unless transfer of the case to the Board is announced prior to close of hearing, the brief should be filed in duplicate with the Regional Director. A copy must also be served on each of the other parties and proof of such service must be filed with the Regional Director at the time the briefs are filed. Briefs submitted are to be double-spaced on 8 1/2 by 11 inch paper.

The briefs shall be filed within 7 days after the close of the hearing unless an extension of time, not to exceed an additional 14 days on request made for good cause, before the hearing closes, is granted by the Hearing Officer. Briefs must be filed in accordance with the provisions of Section 102.111 (b) of the Board's Rules. Facsimile transmission of briefs is not permitted.

A request for an extension of time made after the close of the hearing must be received by the Regional Director, in writing, as much in advance of the date the briefs are due as possible and copies thereof must be served on the other parties by the same or faster method as used to file with the Regional Director (see 102.114 of Board's Rules).

2. Briefs filed with the Board in Washington, DC

a. If transfer of case to the Board is announced at the hearing

Should any party desire to file a brief with the Board, eight copies thereof shall be filed with the Board in Washington, DC. Immediately on such filing, a copy shall be served on each of the other parties. Proof of such service must be filed with the Board simultaneously with the briefs. Such brief shall be printed on otherwise legibly duplicated: Provided, however, that carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. No reply brief may be filed except on special leave of the Board. Any brief filed after transfer of the case to the Board shall be double-spaced on 8 1/2 by 11 inch paper.

The briefs shall be filed within 7 days after the close of hearing unless an extension of time, not to exceed an additional 14 days on request made for good cause, before the hearing closes, is granted by the Hearing Officer. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. Facsimile transmission of briefs is not permitted.

b. Transfer of cases to the Board effected after close of hearing

Pursuant to Section 102.67 of the Board's Rules, the Regional Director may, at any time after the close of hearing and before decision, transfer a case to the Board for decision. The order transferring the case will fix a date for filing briefs in Washington, DC.

If a brief has already been filed with the Regional Director, the parties may file eight copies of the same brief with the Board in the same manner as set forth in "a," above, except that service on other parties is not required. No further briefs shall be submitted except by special permission of the Board.

If the case is transferred to the Board before the time expires for filing of briefs with the Regional Director and before the parties have filed briefs, such briefs shall be filed as set forth in "a," above.

c. Request for extension of time to file briefs with the Board

A request for an extension of time to file briefs with the Board in Washington, D.C., made after the close of hearing must be received by the Executive Secretary's Office in Washington as much in advance of the date the briefs are due as possible but in any event no later than the close of business on the due date. Such request must be in writing and a copy shall be served immediately on each of the other parties and the Regional Director and shall contain a statement that such service has been made.

As provided in Section 102.114(a) and (e) of the Board's Rules and Regulations, service on all parties of a request for an extension of time shall be made in the same or faster manner as that utilized in filing the paper with the Board; however, when filing with the Board is accomplished by facsimile transmission or by personal service, the other parties shall be promptly notified of such action by facsimile transmission or by telephone, followed by service of a copy personally or by overnight delivery service.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE REGARDING REPRESENTATION CASE HEARINGS

Case 08-RC-099789

Hearing Cancellation Based on Agreement of Parties: The issuance of the Notice of Hearing in this case does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments. The Board agent assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by me, will cancel the hearing.

Postponement of the Hearing: Postponement of the hearing *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing and be filed with the Regional Director;
- (2) Copies of the request must be simultaneously served on all other parties, and that fact must be noted on the request;
- (3) Absent extraordinary circumstances, the request must be received no later than 24 hours before the hearing is scheduled to begin;
- (4) Requests for postponement of the hearing to a date more than 14 days after the petition was filed will normally not be granted absent extraordinary circumstances;
- (5) Grounds must be set forth in *detail*, e.g., the unavailability of counsel and all other counsel in the law firm due to previously scheduled federal court or other U.S. Agency hearings or trials;
- (6) Alternative dates for any rescheduled hearing must be given; and
- (7) The positions of all other parties regarding the postponement and alternative hearing dates must be ascertained in advance by the requesting party and set forth in the request.

Approval of a postponement request may be conditioned upon one or more of the following:

- (1) The agreement of all parties to participate at a conference to be held at the Regional Office at least one full day before the rescheduled hearing date;
- (2) Agreement by the requestor that extensions of time for filing of briefs will not be sought or granted; and/or
- (3) The requestor's execution of stipulations on matters not in dispute, e.g., jurisdiction, labor organization status, appropriate unit.

Consecutive Days of Hearing: Once opened, it is expected the hearing will continue on consecutive business days until concluded.

James D. Smith, Grand Lodge Representative
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 54
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Edward J. Kuss, Territory Organizing Leader
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 4
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Phil Critcher, Administrator
Country Meadow Care Center
4910 Algire Rd
Bellville, OH 44813-9263



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 08
1240 E 9TH ST
STE 1695
CLEVELAND, OH 44199-2086

Agency Website: www.nlr.gov
Telephone: (216)522-3715
Fax: (216)522-2418

March 7, 2013

Phil Critcher, Administrator
Country Meadow Care Center
4910 Algire Rd
Bellville, OH 44813-9263

Re: Country Meadow Care Center
Case 08-RC-099789

Dear Mr. Critcher:

Enclosed is a copy of a petition that INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54 filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. This letter tells you how to contact the Board agent who will be handling this matter, explains your right to be represented, requests that you provide certain information, notifies you of a hearing, requests that you post notices, and discusses some of our procedures including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner ROBERTA MONTGOMERY whose telephone number is (216) 522-8181. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Supervisory Field Examiner NORA F. MCGINLEY whose telephone number is (216) 522-3721.

Immediately upon receipt of the petition, the NLRB conducts an impartial investigation to determine if the NLRB has jurisdiction, if the petition is timely and properly filed, if the showing of interest is adequate, and if there are any other interested parties to the proceeding or other circumstances bearing on the question concerning representation. If appropriate, the NLRB then attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Requested Information:

Information Needed Immediately: To process the petition in this matter, we need certain information from you. Accordingly, please submit to this office, as soon as possible, the following information:

- (a) The correct name of your organization;
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any addenda or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (c) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (d) Your position as to the appropriateness of the petitioned-for unit;
- (e) A completed commerce questionnaire (form enclosed) to enable us to determine whether the NLRB has jurisdiction in this matter;
- (f) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any; and
- (g) An alphabetized list of employees in the petitioned-for unit, with their job classifications, for the payroll period immediately before the date of this petition. This list will be used to resolve possible eligibility and unit questions as well as to determine the adequacy of the Petitioner's showing of interest. If such a list is not submitted promptly, any later submission and request for an evaluation of the Petitioner's showing of interest will be considered untimely and no check of the showing of interest will be conducted absent unusual circumstances.

Information Needed Later: If an election is agreed to or directed in this matter, the Employer must file with this office an alphabetized list of the full names and addresses of all eligible voters. We will then make the list available to all parties to the election. The list must be furnished within 7 days of the direction of, or agreement to, an election. I am advising you of this requirement now, so that you will have ample time to prepare this list.

Notice of Hearing: Enclosed is a Notice of Hearing to be conducted on March 13, 2013 if the parties do not voluntarily agree to an election. If a hearing is necessary, it is expected to run on consecutive days until concluded. The enclosed Form NLRB-4339 provides information about rescheduling the hearing. Requests for postponement of the hearing to a date more than 14 days after the petition was filed will normally not be granted absent extraordinary circumstances.

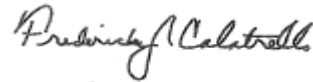
Posting Notices: The NLRB believes that employees should have information about their rights while a representation petition is pending; and employers and labor organizations should be apprised of their responsibilities to refrain from conduct which could interfere with employees' freedom of choice in an election. Accordingly, please immediately post the enclosed Notice to Employees (Form 5492) in conspicuous places in areas where employees in the petitioned-for unit work. Additional copies of the Notice to Employees are available for posting if you need them.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the NLRB will continue to accept timely filed paper documents. On all your correspondence regarding the petition, please include the case name and number indicated above.

Information about the NLRB, the procedures we follow in representation cases, and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Frederick J. Calatrello
Regional Director

FJC:cj

Enclosures

1. Notice of Hearing
2. Notice Regarding Representation Cases (Form 4339)
3. Statement of Standard Procedures in Formal Hearings (Form 4669)
4. Commerce Questionnaire
5. Notice to Employees (Form 5492)
6. Copy of Petition

Revised 3/21/2011

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Country Meadow Care Center

CASE NUMBER

08-RC-099789

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)

YES NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months?** If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 08**



<p>COUNTRY MEADOW CARE CENTER</p> <p>Employer</p> <p>and</p> <p>INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54</p> <p>Petitioner</p>	<p>Case 08-RC-099789</p>
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **March 13, 2013** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located at 1240 E 9th Street, Suite 1695, Cleveland, OH 44199-2086, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony. Form NLRB-4669, *Statement of Standard Procedures in Formal Hearings Held Before The National Labor Relations Board Pursuant to Petitions Filed Under Section 9 of The National Labor Relations Act*, is attached.

Dated: March 7, 2013

Frederick J. Calatrello, Director
National Labor Relations Board
Region 08
1240 E 9th Street, Suite 1695
Cleveland, OH 44199-2086

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

COUNTRY MEADOW CARE CENTER

Employer

and

**INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 54**

Petitioner

Case 08-RC-099789

AFFIDAVIT OF SERVICE OF: Petition dated March 7, 2013, and Notice of Representation Hearing dated March 7, 2013, with Form 4669 attached.

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 7, 2013, I served the above-entitled document(s) by facsimile and regular mail upon the following persons, addressed to them at the following addresses:

James D. Smith, Grand Lodge Representative
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 54
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Edward J. Kuss, Territory Organizing Leader
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 4
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Phil Critcher, Administrator
Country Meadow Care Center
4910 Algire Rd
Bellville, OH 44813-9263

March 7, 2013

Date

Cassandra Carter, Designated Agent of
NLRB

Name



Signature

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE
NATIONAL LABOR RELATIONS BOARD PURSUANT TO PETITIONS FILED
UNDER SECTION 9 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted before a Hearing Officer of the National Labor Relations Board. (R CASES)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance. An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (*Copies of exhibits should be supplied to the Hearing Officer and other parties at the time the exhibit is offered in evidence.*) After the close of the hearing, one or more of the parties may wish to have corrections made in the record. All such proposed corrections, either by way of stipulation or motion, should be forwarded to the Regional Director or to the Board in Washington (*if the case is transferred to the Board*) instead of to the Hearing Officer, inasmuch as the Hearing Officer has no power to make any rulings in connection with the case after the hearing is closed. All matter that is spoken in the hearing room will be recorded by the official reporter while the hearing is in session. In the event that any party wishes to make off-the-record remarks, requests to make such remarks should be directed to the Hearing Officer and not to the official reporter.

Statements of reasons in support of motions or objections should be as concise as possible. Objections and exceptions may, on appropriate request, be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

All motions shall be in writing or, if made at the hearing, may be stated orally on the record and shall briefly state the order of relief sought and the grounds for such motion. An original and two copies of written motions shall be filed with the Hearing Officer and a copy thereof immediately shall be served on the other parties to the proceeding.

The sole objective of the Hearing Officer is to ascertain the respective positions of the parties and to obtain a full and complete factual record on which the duties under Section 9 of the National Labor Relations Act may be discharged by the Regional Director of the Board. It may become necessary for the Hearing Officer to ask questions, to call witnesses, and to explore avenues with respect to matters not raised by the parties. The services of the Hearing Officer are equally at the disposal of all parties to the proceedings in developing the material evidence.

At the close of hearing, any party who desires to file a brief may do so in the appropriate manner described below.

1. Briefs filed with the Regional Director

Unless transfer of the case to the Board is announced prior to close of hearing, the brief should be filed in duplicate with the Regional Director. A copy must also be served on each of the other parties and proof of such service must be filed with the Regional Director at the time the briefs are filed. Briefs submitted are to be double-spaced on 8 1/2 by 11 inch paper.

The briefs shall be filed within 7 days after the close of the hearing unless an extension of time, not to exceed an additional 14 days on request made for good cause, before the hearing closes, is granted by the Hearing Officer. Briefs must be filed in accordance with the provisions of Section 102.111 (b) of the Board's Rules. Facsimile transmission of briefs is not permitted.

A request for an extension of time made after the close of the hearing must be received by the Regional Director, in writing, as much in advance of the date the briefs are due as possible and copies thereof must be served on the other parties by the same or faster method as used to file with the Regional Director (see 102.114 of Board's Rules).

2. Briefs filed with the Board in Washington, DC

a. If transfer of case to the Board is announced at the hearing

Should any party desire to file a brief with the Board, eight copies thereof shall be filed with the Board in Washington, DC. Immediately on such filing, a copy shall be served on each of the other parties. Proof of such service must be filed with the Board simultaneously with the briefs. Such brief shall be printed on otherwise legibly duplicated: Provided, however, that carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. No reply brief may be filed except on special leave of the Board. Any brief filed after transfer of the case to the Board shall be double-spaced on 8 1/2 by 11 inch paper.

The briefs shall be filed within 7 days after the close of hearing unless an extension of time, not to exceed an additional 14 days on request made for good cause, before the hearing closes, is granted by the Hearing Officer. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. Facsimile transmission of briefs is not permitted.

b. Transfer of cases to the Board effected after close of hearing

Pursuant to Section 102.67 of the Board's Rules, the Regional Director may, at any time after the close of hearing and before decision, transfer a case to the Board for decision. The order transferring the case will fix a date for filing briefs in Washington, DC.

If a brief has already been filed with the Regional Director, the parties may file eight copies of the same brief with the Board in the same manner as set forth in "a," above, except that service on other parties is not required. No further briefs shall be submitted except by special permission of the Board.

If the case is transferred to the Board before the time expires for filing of briefs with the Regional Director and before the parties have filed briefs, such briefs shall be filed as set forth in "a," above.

c. Request for extension of time to file briefs with the Board

A request for an extension of time to file briefs with the Board in Washington, D.C., made after the close of hearing must be received by the Executive Secretary's Office in Washington as much in advance of the date the briefs are due as possible but in any event no later than the close of business on the due date. Such request must be in writing and a copy shall be served immediately on each of the other parties and the Regional Director and shall contain a statement that such service has been made.

As provided in Section 102.114(a) and (e) of the Board's Rules and Regulations, service on all parties of a request for an extension of time shall be made in the same or faster manner as that utilized in filing the paper with the Board; however, when filing with the Board is accomplished by facsimile transmission or by personal service, the other parties shall be promptly notified of such action by facsimile transmission or by telephone, followed by service of a copy personally or by overnight delivery service.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE REGARDING REPRESENTATION CASE HEARINGS

Case 08-RC-099789

Hearing Cancellation Based on Agreement of Parties: The issuance of the Notice of Hearing in this case does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments. The Board agent assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by me, will cancel the hearing.

Postponement of the Hearing: Postponement of the hearing *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing and be filed with the Regional Director;
- (2) Copies of the request must be simultaneously served on all other parties, and that fact must be noted on the request;
- (3) Absent extraordinary circumstances, the request must be received no later than 24 hours before the hearing is scheduled to begin;
- (4) Requests for postponement of the hearing to a date more than 14 days after the petition was filed will normally not be granted absent extraordinary circumstances;
- (5) Grounds must be set forth in *detail*, e.g., the unavailability of counsel and all other counsel in the law firm due to previously scheduled federal court or other U.S. Agency hearings or trials;
- (6) Alternative dates for any rescheduled hearing must be given; and
- (7) The positions of all other parties regarding the postponement and alternative hearing dates must be ascertained in advance by the requesting party and set forth in the request.

Approval of a postponement request may be conditioned upon one or more of the following:

- (1) The agreement of all parties to participate at a conference to be held at the Regional Office at least one full day before the rescheduled hearing date;
- (2) Agreement by the requestor that extensions of time for filing of briefs will not be sought or granted; and/or
- (3) The requestor's execution of stipulations on matters not in dispute, e.g., jurisdiction, labor organization status, appropriate unit.

Consecutive Days of Hearing: Once opened, it is expected the hearing will continue on consecutive business days until concluded.

James D. Smith, Grand Lodge Representative
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 54
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Edward J. Kuss, Territory Organizing Leader
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 4
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Phil Critcher, Administrator
Country Meadow Care Center
4910 Algire Rd
Bellville, OH 44813-9263



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 08**



COUNTRY MEADOW CARE CENTER Employer and INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54 Petitioner	Case 08-RC-099789
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ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from March 13, 2013 at 10:00 AM to 10:00 AM on **March 19, 2013** at A Hearing Room of the National Labor Relations Board, 1240 E 9th Street, Suite 1695, Cleveland, OH 44199-2086. The hearing will continue on consecutive days until concluded.

Dated: March 12, 2013

Frederick J. Calatrello, Regional Director
National Labor Relations Board
Region 08
1240 E 9th Street, Suite 1695
Cleveland, OH 44199-2086

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

COUNTRY MEADOW CARE CENTER

Employer

and

**INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 54**

Petitioner

Case 08-RC-099789

AFFIDAVIT OF SERVICE OF: Order Rescheduling Hearing dated March 12, 2013

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 12, 2013, I served the above-entitled document(s) by email and regular mail upon the following persons, addressed to them at the following addresses:

James D. Smith, Grand Lodge Representative
International Association of Machinists &
Aerospace Workers, AFL-CIO, District
Lodge 54
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Edward J. Kuss, Territory
Organizing Leader/GLR
International Association of Machinists
& Aerospace Workers, AFL-CIO,
District Lodge 4
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Phil Critcher, Administrator
Country Meadow Care Center
4910 Algire Rd
Bellville, OH 44813-9263

Craig M. Brown, Esq.
Littler Mendelson, P.C.
1100 Superior Ave E, Floor 20
Cleveland, OH 44114-2518

March 12, 2013

Date

Cassandra Carter, Designated Agent of
NLRB

Name




Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
AMENDED PETITION

DO NOT WRITE IN THIS SPACE

Case No.
08-RC-099789

Date Filed
3/18/13

INSTRUCTIONS: Submit an original of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located. The Petitioner alleges that the following circumstances exist and requests that the NLRB proceed under its proper authority pursuant to Section 9 of the NLRA.			
1. PURPOSE OF THIS PETITION (NOTE: If the petition type listed below is RC, RM, or RD and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.)			
RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.			
2. Name of Employer COUNTRY MEADOW CARE CENTER		Employer Representative to contact PHIL CRITCHER, ADMINISTRATOR	
		Tel. No. (419)886-3922	
3. Address(es) of Establishment(s) Involved (Street and number, city, State, ZIP code) 4910 ALGIRE RD. BELLVILLE, OH 44813-9283		Fax No. (419)886-0088	
4a. Type of Establishment (Factory, mine, wholesaler, etc.) NURSING HOME	4b. Identify principal product or service NURSING HEALTHCARE		Cell No.
			e-Mail
5. Unit Involved (In UC petition, describe present bargaining unit and attach description of proposed clarification.) Included: All full-time and regular part-time STNA employees employed by the Employer at its Bellville, Ohio location. Excluded: All office clerical employees, professional employees, managerial employees, guards and supervisors and all others as defined in the Act.			6a. No. of Employees in Unit: Present 15 Proposed (By UC/AC)
			6b. Is this petition supported by 30% or more of the employees in the unit? Y
(If you have checked box RC in 1 above, check and complete EITHER item 7a or 7b, whichever is applicable)			
7a. <input checked="" type="checkbox"/> Request for recognition as Bargaining Representative was made on Petition serves as demand and Employer declined recognition on or about . (If no reply received, so state).			
7b. <input type="checkbox"/> Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.			
8. Name of Recognized or Certified Bargaining Agent (If none, so state)		Affiliation	
Address	Tel No.	Date of Recognition or Certification	
	Cell No.	Fax No.	e-Mail
9 Expiration Date of Current Contract, if any (Month, Day, Year)		10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day, and Year)	
11a. Is there now a strike or picketing at the Employer's establishment(s) involved? N		11b. If so, approximately how many employees are picketing? 0	
11c. The Employer has been picketed by or on behalf of (Insert Name) Since (Month, Day, Year)			
12. Organizations or individuals other than Petitioner (and other than those named in items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in item 5 above. (If none, so state)			
Name	Address	Tel No.	Fax No.
		Cell No.	e-Mail
13. Full name of party filing petition (If labor organization, give full name, including local name and number) INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54			
14a Address (street and number, city, state and zip) 135 MERCHANT ST, STE. 265, CINCINNATI, OH 45246-3734		14b Tel No. (513)772-9310	14c Fax No. (513)772-8598
		14d Cell No.	14e e-Mail jsmith2@iamaw.org
15. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (to be filled in when petition is filed by a labor organization) INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO DISTRICT LODGE 54			
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
Name (Print) JAMES D. SMITH	Signature 		Title GRAND LODGE REPRESENTATIVE
Address (street and number, city, state and zip) 135 MERCHANT ST, STE. 265, CINCINNATI, OH 45246-3734	Tel No. (513)772-9310		Fax No. (513)772-8598
	Cell No.		e-Mail choelecher@iamaw.org

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT: Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 08**



COUNTRY MEADOW CARE CENTER Employer and INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL- CIO, DISTRICT LODGE 54 Petitioner	Case 08-RC-099789
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ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from March 13, 2013 at 10:00 AM to 10:00 AM on **March 21, 2013** at A Hearing Room of the National Labor Relations Board, 1240 E 9TH ST, STE 1695, CLEVELAND, OH 44199-2086. The hearing will continue on consecutive days until concluded.

Dated: March 18, 2013

FREDERICK J. CALATRELLO, Regional Director
National Labor Relations Board
Region 08
1240 E 9TH ST
STE 1695
CLEVELAND, OH 44199-2086

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

COUNTRY MEADOW CARE CENTER

Employer

and

**INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 54**

Petitioner

Case 08-RC-099789

AFFIDAVIT OF SERVICE OF: Order Rescheduling Hearing dated March 18, 2013

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 18, 2013, I served the above-entitled document(s) by facsimile and regular mail upon the following persons, addressed to them at the following addresses:

DAVID LOWELL, GRAND LODGE
REPRESENTATIVE
INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE
WORKERS, AFL-CIO, DISTRICT LODGE
54
EXECUTIVE PLAZA III
135 MERCHANT STREET, SUITE 265
CINCINNATI, OH 45246-3734

EDWARD J. KUSS, TERRITORY
ORGANIZING LEADER/GLR
INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE
WORKERS, AFL-CIO, DISTRICT LODGE
4
EXECUTIVE PLAZA III
135 MERCHANT STREET, SUITE 265
CINCINNATI, OH 45246-3734

PHIL CRITCHER, Administrator
COUNTRY MEADOW CARE CENTER
4910 ALGIRE RD
BELLVILLE, OH 44813-9263

CRAIG M. BROWN, ESQ., Attorney
LITTLER MENDELSON, P.C.
1100 SUPERIOR AVE E
FL 20
CLEVELAND, OH 44114-2518

March 18, 2013

Date

Enter NAME, Designated Agent of NLRB

Name

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 08
1240 E 9TH ST
STE 1695
CLEVELAND, OH 44199-2086

Agency Website: www.nlrb.gov
Telephone: (216)522-3715
Fax: (216)522-2418

March 19, 2013

James D. Smith, Grand Lodge Representative
International Association of Machinists &
Aerospace Workers, AFL-IO, DL 98, LL 1060
Executive Plaza III
135 Merchant St, Ste. 265
Cincinnati, OH 45246-3734

Phil Critcher, Administrator
Country Meadow Care Center
4910 Algire Rd
Bellville, OH 44813-9263

Re: Country Meadow Care Center
Case 08-RC-099789

Dear Mr. Smith, Mr. Critcher:

This is to inform you that an amended petition, a copy of which is enclosed, was filed in the above matter on March 18, 2013.

Investigator: This petition is being investigated by Field Examiner ROBERTA MONTGOMERY whose telephone number is (216) 522-8181. If the agent is not available, you may contact Supervisory Field Examiner NORA F. MCGINLEY whose telephone number is (216) 522-3721.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Frederick J. Calatrello". The signature is fluid and cursive.

Frederick J. Calatrello
Regional Director

FJC:cj

Enclosure: Copy of Petition

cc: Edward J. Kuss, Territory
Organizing Leader/GLR
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 4
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Craig M. Brown, Esq.
Littler Mendelson, P.C.
1100 Superior Ave E, Floor 20
Cleveland, OH 44114-2518

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 08**

<p>COUNTRY MEADOW CARE CENTER</p> <p style="text-align: center;">Employer</p> <p style="text-align: center;">and</p> <p>INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL- CIO, DISTRICT LODGE 54</p> <p style="text-align: center;">Petitioner</p>	Case 08-RC-099789
--	--------------------------

AFFIDAVIT OF SERVICE OF: Amended Petition dated March 18, 2013

I depose and say that on **March 19, 2013**, I served the above-entitled document(s) by post-paid email and/or regular mail upon the following persons, addressed to them at the following addresses:

James D. Smith, Grand Lodge Representative
International Association of
Machinists & Aerospace Workers,
AFL-IO, DL 98, LL 1060
Executive Plaza III
135 Merchant St, Ste. 265
Cincinnati, OH 45246-3734

Edward J. Kuss, Territory
Organizing Leader/GLR
International Association of
Machinists & Aerospace Workers,
AFL-CIO, District Lodge 4
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, OH 45246-3734

Phil Critcher, Administrator
Country Meadow Care Center
4910 Algire Rd
Bellville, OH 44813-9263

Craig M. Brown, Esq.
Littler Mendelson, P.C.
1100 Superior Ave E, Floor 20
Cleveland, OH 44114-2518

March 19, 2013

Date

Cassandra Carter, Designated Agent of NLRB

Name



Signature

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 8**

COUNTRY MEADOW CARE CENTER

Employer,

and

INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE
WORKERS, AFL-CIO, DISTRICT
LODGE 54,

Petitioner.

Case No. 08-RC-099789

**EMPLOYER'S MOTION TO DISMISS
PETITION OR STAY PROCEEDINGS**

CRAIG M. BROWN, Bar No. 0017321
LITTLER MENDELSON, P.C.
1100 Superior Avenue, 20th Floor
Cleveland, OH 44114
Telephone: 216.696.7600
Facsimile: 216.696.2038
Email: cmbrown@littler.com

Attorneys for Employer
COUNTRY MEADOW CARE CENTER

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I. INTRODUCTION

The petition in this matter was filed by Petitioner on March 6, 2013, and an Amended Petition was filed on March 18, 2013. A hearing on the petition is scheduled for March 21, 2013. The Employer moves the Regional Director to dismiss the petition, or in the alternative, to stay all proceedings in this matter until such time as there is a lawfully constituted quorum of the National Labor Relations Board (“Board”). The Board as currently constituted is not legally authorized to take any action on the representation petition filed by Petitioner because the Board does not have a lawful quorum of Members. For the same reason, the Regional Director is not legally authorized to take any action on the petition as any action undertaken by the Regional Director in this matter ultimately is subject to and an extension of the authority of the Board. For these reasons, the petition should be dismissed, or in the alternative, all actions on the petition should be stayed until such point as the Board has a lawful quorum.

II. THE PETITION SHOULD BE DISMISSED, OR IN THE ALTERNATIVE, ALL PROCEEDINGS ON THE PETITION SHOULD BE STAYED BECAUSE THE BOARD DOES NOT HAVE AUTHORITY TO DETERMINE ANY OF THE ISSUES RAISED BY THE PETITION

A. The Board as currently constituted may not act because there is no lawful quorum

In *New Process Steel, L.P. v. NLRB*, 130 S. Ct. 2635 (2010), the U.S. Supreme Court determined that the Board may not lawfully act at any time there are not at least three Members who are serving on the Board. The Employer contends that the Board has not had a lawful quorum at any time since August 27, 2011, when Member Liebman’s appointment expired, because none of the individuals purportedly serving as Members of the Board since that time who were the subject of “recess” appointments were validly appointed to the Board. The Employer further contends that, at the very least and as relevant to this petition, the Board has

not had a lawful quorum since at least January 3, 2012 because the recess appointments of Sharon Block and Richard Griffin were void *ab initio*.

Between December 17, 2011 and January 23, 2012, the U.S. Senate held a series of “pro forma” sessions to break the intervening period into three-day adjournments so that the Senate could comply with its obligation under the Constitution not to adjourn for more than three days during a congressional session without the consent of the U.S. House of Representatives. See, i.e., Statement of Charles J. Cooper before the House Committee on Education and Workforce concerning “The NLRB Recess Appointments: Implications for America’s Workers and Employers (Feb. 7, 2012) (hereinafter “Cooper Statement”), § 1.¹ At one of these pro forma sessions, the Senate passed a two-month extension of the payroll tax cut, as requested by the President. 157 Cong. Rec. S8749 (daily ed. Dec. 17, 2011).

Furthermore, on January 3, 2012, the Senate met in pro forma session to convene the second session of the 112th Congress and to comply with the requirement of the Twentieth Amendment to the Constitution that “Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3rd day of January, unless they shall by law appoint a different day.” The Senate did not go into recess at the conclusion of that day’s assembly. Rather, the Senate was scheduled to meet in pro forma session again on January 6, 2012. See, i.e., Testimony of Sen. Michael S. Lee before the House Committee on Oversight and Government Reform concerning “Unchartered Territory: What are the Consequences of the President’s Unprecedented ‘Recess’ Appointments” (Feb. 1, 2012) (“Lee Statement”), p.1.²

¹ This Statement is available on the Committee’s website at <http://edworkforce.house.gov/Calendar/EventSingle.aspx?EventID=277173>.

² This testimony is available on the Committee’s webpage: <http://oversight.house.gov/hearing/uncharted-territory-what-are-the-consequences-of-president-obamas-unprecedented-recess-appointments/>.

The following day, January 4, 2012, the President made four “recess” appointments, including Sharon Block, Terence F. Flynn, and Richard Griffin to fill three vacant seats on the Board (“January 4 Appointments”). Without the January 4 Appointments, the Board would only have had two members (Mark G. Pearce and Brian Hayes) on that date and thereafter, and would therefore have lacked the quorum needed to take action pursuant to *New Process Steel, L.P. v. NLRB*, 130 S. Ct. 2635 (2010).³

The Appointments Clause gives the President power “by and with the Advice and Consent of the Senate to ... appoint ... Officers of the United States.” U.S. Constitution, Art. II, § 2, cl. 2. As a supplement to this procedure, the Recess Appointments Clause authorizes the President to “fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.” U.S. Constitution, Art. II, § 2, cl. 3. See *The Federalist No. 67* (Alexander Hamilton). The Framers gave the President this “auxiliary” authority, which allows the President to bypass the Senate only in a limited circumstance, because “it would have been improper to oblige [the Senate] to be continually in session for the appointment of officers,” and yet “vacancies might happen *in their recess*, which it might be necessary for the public service to fill without delay.” See *The Federalist No. 67* (emphasis in original). The need for recess appointments, and consequently the power to make recess appointments, however, does not exist during periods when the Senate is not in recess.

The Senate was not in recess when the January 4 Appointments were made. The President made these Appointments the day after the Senate met and in the midst of a period when the Senate adjourned for no more than three days between pro forma sessions. As early as 1921, it has been recognized that “an adjournment of 5 or even 10 days [does not] constitute the

³ Terence F. Flynn resigned on July 24, 2012. He has not been replaced. Additionally, Member Hayes’s term expired on December 16, 2012, and he has not been replaced.

recess intended by the Constitution.” Opinion of U.S. Attorney Harry M. Daugherty, 33 U.S. Op. Att’y Gen. 20, 24-25 (1921). Most recently, Deputy Solicitor General Neal Katyal, during oral argument before the Supreme Court in *New Process Steel*, stated that the “recess appointment power can work in – in a recess. I think our office has opined the recess has to be longer than 3 days.” *New Process Steel, L.P. v. NLRB*, Case No. 08-1457, Transcript of Oral Argument, Mar. 23, 2010, at 50:3-5.

There is an even more fundamental reason for finding that the Senate was not in recess on January 4, 2012 – the Senate says that it was not in recess. The Constitution vests in each House of Congress the power to “determine the Rules of its Proceedings.” U.S. Constitution, Art. I, § 5, cl. 2. Rules “governing how and when the Senate meets and adjourns are quintessential rules of proceedings.” Cooper Statement at § IV. The Rulemaking Clause commits to the Senate judgments about the meaning of its own rules. As the Supreme Court held in *United States v. Balin*, 144 U.S. 1 (1892):

Neither do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration. With the courts the question is only one of power. The Constitution empowers each house to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the house, and it is no impeachment of the rule to say that some other way would be better, more accurate or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house, *and within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.*

Id. at 5 (emphasis added). Accordingly, it is not the province of the Executive Branch to dictate the Senate’s rules of proceedings or determine the meaning of those rules. The Senate’s

determination that it was repeatedly in session, and not in recess, between December 17, 2011 and January 23, 2012 should be determinative.

In sum, the January 4 Appointments violated the Constitution because they did not occur during a recess, were therefore void *ab initio*, and the Board currently lacks a quorum to lawfully take action. *New Process Steel v. NLRB*, 130 S. Ct. 2635; *Noel Canning v. NLRB*, 2013 U.S. App. LEXIS 1659, at *23-45 (D.C. Cir. Jan. 25, 2013).

Alternatively, the January 4 Appointments were void *ab initio* because the vacancies at issue did not “happen” during a “Recess” within the meaning of the recess appointments clause of the Constitution (U.S. Constitution, Art. II, § 2, cl. 3). Instead, they arose during the session, at a time when the President lacked the authority to make recess appointments. The Board seats at issue here became vacant on August 27, 2010, August 27, 2011, and January 3, 2012. *Noel Canning*, 2013 U.S. App. LEXIS 1659, at *20, 61, citing 158 Cong. Rec. S582-83 (daily ed. Feb. 13, 2012); 152 Cong. Rec. 17,077 (2006). On August 27, 2010 and August 27, 2011, the Senate was in an *intrasession* recess, not an *intersession* recess. *Id.* at *61. Additionally, the seat formerly held by Member Becker became vacant at the “End” of the Senate’s session on January 3, 2012, not during any recess. *Id.* at *61-68. Accordingly, for this alternative reason, the January 4 Appointments were unconstitutional. *Noel Canning*, 2013 U.S. App. LEXIS 1659, at *45-68.

Further in the alternative, in the event that that the January 4 Appointments were valid at the time they were made, the January 4 Appointments expired on January 3, 2013, at the “End” of the Senate’s “next Session.” U.S. Constitution, Art. II, § 2, cl. 3; *The Federalist No. 67* (Alexander Hamilton).⁴

⁴ See the Days in Session Calendar for 112th Congress second session for the days on which the Senate was in session for that session of Congress, available at <http://thomas.loc.gov/home/ds/s1122.html>.

The Employer is aware of the Board's decision in *Center for Social Change, Inc.*, 358 NLRB No. 24 (2012), in which the Board essentially side-stepped the employer's challenge to the Board's authority to act based on *New Process Steel* and the asserted invalidity of the January 4 Appointments by relying on a presumption of regularity of the official acts of public officials. The Employer is also aware of Chairman Pearce's statements following the D.C. Circuit's *Noel Canning* decision questioning the outcome reached in that case and stating that the Board would continue to process cases pending before it notwithstanding the *Noel Canning* decision. The Employer respectfully submits that the undisputable facts set forth above fully rebut the presumption relied on in *Center for Social Change* and that continued processing of this petition at this time will only result in a waste of time and resources for the Board, the Employer and Petitioner.

B. Processing the Petition would be an act of futility and defeat the purposes of the Act.

Ultimately, the Board will have to resolve the issues raised by the petition in this case. Currently, and for the foreseeable future, the Board does not have the authority to act. Thus, the issues raised cannot be resolved and the Employer, Petitioner and employees affected by the petition will be left in the unenviable position of having their relationship undefined indefinitely. It is an objective of the Act and the purpose of the Board to resolve matters such as those raised by the petition in this case in an expeditious manner. By proceeding, the Regional Director and the Board will create the opposite effect – an unknown, undefined relationship between the Employer, its employees and the Petitioner. This uncertainty would indefinitely deprive all the parties affected by the petition in this matter of their rights under the Act. This unjust outcome inimical to the purpose of the Act should be avoided.

III. CONCLUSION

For the foregoing reasons, the Employer moves the Regional Director to Dismiss the Petition or, in the alternative, to Stay Proceedings until a lawfully constituted Board has a quorum to proceed.

Dated: March 19, 2013



CRAIG M. BROWN, Bar No. 0017321
LITTLER MENDELSON, P.C.
1100 Superior Avenue, 20th Floor
Cleveland, OH 44114
Telephone: 216.696.7600
Facsimile: 216.696.2038
Email: cmbrown@littler.com

Attorneys for Employer,
COUNTRY MEADOW CARE CENTER

PROOF OF SERVICE BY E-MAIL

I am employed in Cleveland, Ohio. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1100 Superior Avenue, 20th Floor, Cleveland, Ohio 44114. On March 18, 2013, I served a true and correct copy of the following document(s):

EMPLOYER'S MOTION TO DISMISS PETITION OR STAY
PROCEEDINGS

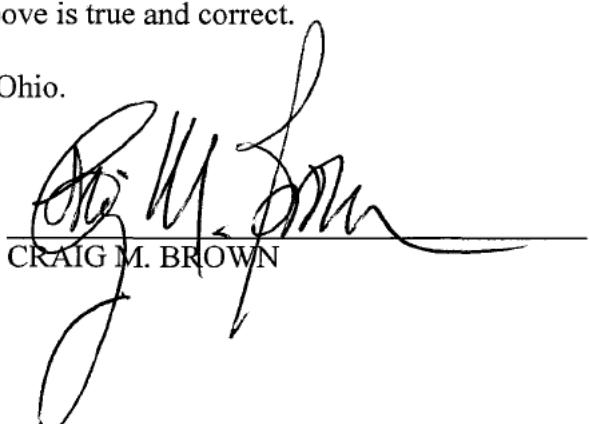
by e-mailing the document(s) to the following person(s) at the e-mail address(es) listed below:

James D. Smith, Grand Lodge Representative
International Association of Machinists &
Aerospace Workers, AFL-IO, DL 98, LL 1060
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, Ohio 45246-3734

Jsmith2@iamaw.org

I declare under penalty of perjury that the above is true and correct.

Executed on March 19, 2013, at Cleveland, Ohio.


CRAIG M. BROWN

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

**Country Meadow Facility Operations, LLC d/b/a Country
Meadow Care Center**

Case 08-RC-099789

The parties **AGREE AS FOLLOWS:**

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

Country Meadow Facility Operations LLC d/b/a Country Meadow Care Center is an Ohio corporation with a facility located at 4910 Algire Road, Bellville, Ohio, the sole facility involved herein where it is engaged in the business of operating a nursing home. Annually, in the course and conduct of its business operations it grosses revenues in excess of \$500,000 and it purchases and receives goods valued in excess of \$50,000 directly from enterprises who in turn received those goods from points located outside the State of Ohio.

3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

**DATE: April 24, 2013 HOURS: 5:30 A.M. TO 6:30 A.M. AND
1:30 P.M. TO 2:30 P.M.**

**PLACE: SECOND FLOOR THERAPY OFFICE
4910 ALGIRE RD
BELLVILLE, OH**

If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time STNA employees, including STNA PRN's employed by the Employer at its facility located at 4910 Algire Rd., Bellville, Ohio, but excluding all office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act and all other employees.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending March 9, 2013**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. ELECTION ELIGIBILITY LIST. Within seven (7) days after the Regional Director has approved this Agreement, the Employer shall provide to the Regional Director an election eligibility list containing the full names and addresses of all eligible voters. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *North Macon Health Care Facility*, 315 NLRB 359 (1994).

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of any voters or potential voters who only read a language other than English.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by **INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54?** The choices on the ballot will be "Yes" or "No".

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer will post copies of the Notice of Election in conspicuous places and usual posting places easily accessible to the voters at least three (3) full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

10. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

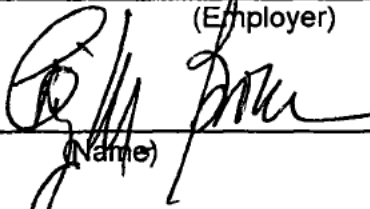
11. TALLY OF BALLOTS. Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

12. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

**COUNTRY MEADOW FACILITY
OPERATIONS, LLC D/B/A COUNTRY
MEADOW CARE CENTER**

(Employer)

By

 3/21/13
(Name) (Date)

/s/ Craig M. Brown, Esq.

**INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 54**

(Petitioner)

By

(Name) (Date)

/s/ James D. Smith, GLR

(Union)

Recommended:

Roberta Montgomery, Field Examiner (Date)

By

(Name) (Date)

Date approved:

3/22/13


Regional Director, Region 08
National Labor Relations Board

/s/ Frederick J. Calatrello

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

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Meadow Care Center**

Case 08-RC-099789

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3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

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Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls.

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6. ELECTION ELIGIBILITY LIST. Within seven (7) days after the Regional Director has approved this Agreement, the Employer shall provide to the Regional Director an election eligibility list containing the full names and addresses of all eligible voters. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *North Macon Health Care Facility*, 315 NLRB 359 (1994).

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of any voters or potential voters who only read a language other than English.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by **INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54?** The choices on the ballot will be "Yes" or "No".

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer will post copies of the Notice of Election in conspicuous places and usual posting places easily accessible to the voters at least three (3) full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

10. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

11. TALLY OF BALLOTS. Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

SDS
3-22-13

12. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

**COUNTRY MEADOW FACILITY
OPERATIONS, LLC D/B/A COUNTRY
MEADOW CARE CENTER**

(Employer)

**INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 54**

(Petitioner)

By _____
(Name) (Date)

/s/ Craig M. Brown, Esq.

By James D. Smith 3-22-13
(Name) (Date)

/s/ James D. Smith, GLR

(Union)

Recommended: Roberta Montgomery 3/22/13
Roberta Montgomery, Field Examiner (Date) (init)

By _____
(Name) (Date)

Date approved: 3/24/13

Frederick J. Calatrello
Regional Director, Region 08
National Labor Relations Board

/s/ Frederick J. Calatrello



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 08
1240 E 9TH ST
STE 1695
CLEVELAND, OH 44199-2086

Agency Website: www.nlrb.gov
Telephone: (216)522-3715
Fax: (216)522-2418

March 22, 2013

PHIL CRITCHER,
ADMINISTRATOR
COUNTRY MEADOW FACILITY
OPERATIONS, LLC D/B/A COUNTRY
MEADOW CARE CENTER
4910 ALGIRE RD
BELLVILLE, OH 44813-9263

JAMES D. SMITH,
GRAND LODGE REPRESENTATIVE
INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 54
EXECUTIVE PLAZA III
135 MERCHANT ST, STE. 265
CINCINNATI, OH 45246-3734

Re: Country Meadow Facility Operations, LLC
d/b/a Country Meadow Care Center
Case 08-RC-099789

Dear Mr. CRITCHER, Mr. SMITH:

Enclosed is a copy of the election agreement that I have approved in this case. This letter will provide you with additional information about the election eligibility list, posting the election notices, and the agreed-upon election arrangements.

Election Eligibility List

It is longstanding Board policy that all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. In accordance with the terms of the election agreement, the Employer must file with me an election eligibility list, containing the **full** names and **complete** addresses (including postal zip codes) of all the eligible voters who were on the Employer's payroll for the period ending March 9, 2013.

The list must be of sufficiently large type to be clearly legible, and the names should be alphabetized. I will make this list available to all parties to the election.

To be timely filed, the list must be received in this office on or before March 29, 2013. No extension of time to file this list may be granted except in extraordinary circumstances. Failure by the Employer to comply with this requirement is grounds for setting aside the election if proper objections are filed.

Electronic filing of the list through the Agency website is preferred but not required. To file electronically, go to www.nlr.gov, select **File Case Documents**, enter the **NLRB case number**, and follow the detailed instructions. The list also may be submitted to our office by fax to (216)522-2418 or by regular mail to the address above. The burden of establishing the timely filing and receipt of the list is on the sending party.

Election Arrangements

The arrangements for the election in this matter are as follows:

Date of Election: April 24, 2013

Time: 5:30 A.M. TO 6:30 A.M. AND 1:30 P.M. TO 2:30 P.M.

Place: SECOND FLOOR THERAPY OFFICE
4910 ALGIRE RD, BELLVILLE, OH

Election Observers: Each party may have one observer for each polling session. The observers may be present at the polling place during the balloting and to assist the Board agent in counting the ballots after the polls have been closed. **Please complete the enclosed Designation of Observer form and return it to this office as soon as possible.**

Pre-Election Conference: A pre-election conference for all parties will be held on April 24, 2013 at 5:00 a.m. at Second Floor Therapy Office. The parties are requested to have their election observers present at this conference so that the observers may receive instruction from the Board Agent about their duties.

Election Equipment: The Board agent conducting the election will furnish the ballot box, ballots, and voting booths. The Employer is requested to provide, at the polling place, a table and a sufficient number of chairs for use by the Board agent and observers during the election.

Posting of Election Notices

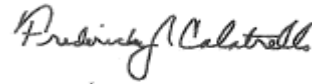
Election notices will soon be mailed to the parties. Section 103.20 of the Board's Rules and Regulations requires the Employer to timely post copies of the Board's official Notice of Election in conspicuous places. In this case, the notices must be posted **before 12:01 a.m. on April 19, 2013**. If the Employer does not receive copies of the notice by April 12, 2013, it should notify the Regional Office immediately. Pursuant to Section 103.20(c), a failure to do so precludes an employer from filing objections based on nonposting of the election notice.

To make it administratively possible to have election notices and ballots in a language other than English, please notify the Board agent immediately if that is necessary for this election. Also, as noted in paragraph 9 of the stipulated election agreement, if special accommodations are required for any voters, potential voters, or election participants to vote or reach the voting area, please tell the Board agent as soon as possible.

March 22, 2013

If there are any questions, please feel free to contact Field Examiner LAURAL S. WAGNER at telephone number (216)522-8190 or by email at laural.wagner@nlrb.gov. The cooperation of all parties is sincerely appreciated.

Very truly yours,



FREDERICK J. CALATRELLO
Regional Director

Enclosures

1. Approved Election Agreement
2. Designation of Observer Form

cc: EDWARD J. KUSS
TERRITORY ORGANIZING LEADER/GLR
INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS, AFL-
CIO, DISTRICT LODGE 4
EXECUTIVE PLAZA III
135 MERCHANT STREET, SUITE 265
CINCINNATI, OH 45246-3734

CRAIG M. BROWN, ESQ., Attorney
LITTLER MENDELSON, P.C.
1100 SUPERIOR AVE E
FL 20
CLEVELAND, OH 44114-2518

DESIGNATION OF OBSERVER(S)

Re: Country Meadow Facility Operations, LLC
d/b/a Country Meadow Care Center
Case 08-RC-099789

COUNTRY MEADOW FACILITY OPERATIONS, LLC D/B/A COUNTRY MEADOW CARE CENTER hereby designates the individual listed below to act as its observer during the election in the above case.

Observer's Name	Observer's Job Title
1.	

I certify that each of the above-named individuals is an employee of the Employer and is not a supervisor within the meaning of Section 2(11) of the Act.

COUNTRY MEADOW FACILITY OPERATIONS, LLC D/B/A
COUNTRY MEADOW CARE CENTER

(Name of Party)

By:

(Signature)

(Representative Name: Print or Type)

(Representative Title)

(Date)

Note: The use of a supervisor as an observer may result in setting aside the election. Section 2(11) of the National Labor Relations Act states: "The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

DESIGNATION OF OBSERVER(S)

Re: Country Meadow Facility Operations, LLC
d/b/a Country Meadow Care Center
Case 08-RC-099789

PETITIONER INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54 hereby designates the individual listed below to act as its observer during the election in the above case.

Observer's Name	Observer's Job Title
1.	

I certify that each of the above-named individuals is an employee of the Employer and is not a supervisor within the meaning of Section 2(11) of the Act.

INTERNATIONAL ASSOCIATION OF MACHINISTS &
AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54

(Name of Party)

By:

(Signature)

(Representative Name: Print or Type)

(Representative Title)

(Date)

Note: The use of a supervisor as an observer may result in setting aside the election. Section 2(11) of the National Labor Relations Act states: "The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 08
1240 E 9TH ST
STE 1695
CLEVELAND, OH 44199-2086

Agency Website: www.nlr.gov
Telephone: (216)522-3715
Fax: (216)522-2418

April 1, 2013

PHIL CRITCHER, Administrator
COUNTRY MEADOW FACILITY OPERATIONS,
LLC D/B/A COUNTRY MEADOW CARE CENTER
4910 ALGIRE RD
BELLVILLE, OH 44813-9263

Re: Country Meadow Facility Operations, LLC
d/b/a Country Meadow Care Center
Case 08-RC-099789

Dear Mr. CRITCHER:

Enclosed are the Notices of Election in the above case. Please post them on bulletin boards and other conspicuous places in areas where the employees in the bargaining unit work. To help avoid an issue about the adequacy of the posting period, **the notices should be posted immediately upon receipt.**

Notice Posting Requirement

Section 103.20 of the Board's Rules and Regulations requires employers to post the Board's official Notice of Election in conspicuous places at least 3 working days, not including Saturdays, Sundays, and holidays, prior to 12:01 a.m. of the day of the election. **Therefore, the enclosed notices must be posted prior to 12:01 a.m. on April 19, 2013.** Failure to comply with this posting requirement is grounds for setting the election aside whenever proper and timely objections are filed.

Section 103.20 also provides that an employer is conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 working days prior to the commencement of the election that it has not received copies of the election notice. Failure to do so within that time period precludes an employer from filing objections based on the nonposting of the election notice.

Very truly yours,

FREDERICK J. CALATRELLO
Regional Director

FJC/rh

Enclosures: (10)

March 26, 2013

cc: JAMES D. SMITH, GRAND LODGE
REPRESENTATIVE
INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 54
EXECUTIVE PLAZA III
135 MERCHANT ST, STE. 265
CINCINNATI, OH 45246-3734

EDWARD J. KUSS, TERRITORY
ORGANIZING LEADER/GLR
INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 4
EXECUTIVE PLAZA III
135 MERCHANT STREET, SUITE 265
CINCINNATI, OH 45246-3734

CRAIG M. BROWN, ESQ., Attorney
LITTLER MENDELSON, P.C.
1100 SUPERIOR AVE E, FL 20
CLEVELAND, OH 44114-2518



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 08
1240 E 9TH ST
STE 1695
CLEVELAND, OH 44199-2086

Agency Website: www.nlrb.gov
Telephone: (216)522-3715
Fax: (216)522-2418

March 29, 2013

JAMES D. SMITH
GRAND LODGE REPRESENTATIVE
INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 54
EXECUTIVE PLAZA III
135 MERCHANT ST, STE. 265
CINCINNATI, OH 45246-3734

EDWARD J. KUSS
TERRITORY ORGANIZING LEADER/GLR
INTERNATIONAL ASSOCIATION OF MACHINISTS
& AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 4
EXECUTIVE PLAZA III
135 MERCHANT STREET, SUITE 265
CINCINNATI, OH 45246-3734

Re: Country Meadow Facility Operations, LLC
d/b/a Country Meadow Care Center
Case 08-RC-099789

Dear Mr. SMITH, Mr. KUSS:

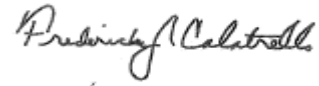
Enclosed is the eligibility list the Employer furnished in connection with the scheduled election in this matter. Please review the list promptly and advise this office as soon as possible, but in any event before the pre-election conference, if you believe any names have been omitted or if you have any questions about the inclusion of any individuals on the list.

At the election, the only copy of the eligibility list that may be used is the one provided by the Board agent. Your observers will not be permitted to have the enclosed list at the checking table during the election.

Country Meadow Facility Operations, LLC - 2 -
d/b/a Country Meadow Care Center
Case 08-RC-099789

March 26, 2013

Very truly yours,

A handwritten signature in dark ink, appearing to read "Frederick J. Calatrello". The signature is written in a cursive, flowing style.

FREDERICK J. CALATRELLO
Regional Director

FJC/kw

Enclosure

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS
BOARD

REGION 8

COUNTRY MEADOW CARE CENTER,

Employer,

v.

INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE
WORKERS, AFL-CIO, DISTRICT
LODGE 54,

Petitioner.

CASE NO. 08-RC-099789

EMPLOYER'S MOTION TO DISMISS PETITION

CRAIG M. BROWN, Bar No. 0017321
ADAM E. PRIMM, Bar No. 00086375
LITTLER MENDELSON, P.C.
1100 Superior Avenue, 20th Floor
Cleveland, OH 44114
Telephone: 216.696.7600
Facsimile: 216.696.2038
Email: cmbrown@littler.com

Attorneys for Employer
COUNTRY MEADOW CARE CENTER

Country Meadow Care Center (“Country Meadow”), by and through its attorneys, moves to dismiss the Representation Petition in Case No. 08-RC-099789.

I. FACTS

International Association of Machinists & Aerospace Workers (“IAM” or “Union”) filed a Petition for Representation on March 6, 2013, seeking to represent a proposed bargaining unit encompassing all full-time and regular part-time Registered Nurses (“RNs”) including PRNs, all full-time and regular part-time Licensed Professional Nurses (“LPNs”) including PRNs, and all full-time and regular part-time State Tested Nursing Assistants (“STNAs”) including PRNs. A hearing to determine, among other things, whether or not RNs or LPNs should be excluded from the proposed bargaining unit as supervisors, as contended by Country Meadow, was scheduled for March 19, 2013. Just prior to the hearing, on March 18, 2013, the Union amended its Representation Petition. The Amended Petition seeks a bargaining unit of just STNAs, excluding RNs and LPNs. The parties entered into a Stipulated Election Agreement on March 21, 2013.

On or about March 22, 2013, two individuals ((b) (6), (b) (7)(C)) and (b) (6), (b) (7)(C)) (b) (6), (b) (7)(C)) voluntarily approached (b) (6), (b) (7)(C)) (b) (6), (b) (7)(C)) and informed (b) (6), (b) (7)(C)) that (b) (6), (b) (7)(C)) was soliciting union support. (b) (6), (b) (7)(C)) stated that on March 2, 2013, (b) (6), (b) (7)(C)) met with (b) (6), (b) (7)(C)), (b) (6), (b) (7)(C)) (b) (6), (b) (7)(C)), and (b) (6), (b) (7)(C)) (b) (6), (b) (7)(C)), (b) (6), (b) (7)(C)), and (b) (6), (b) (7)(C)) at work during the shift change to discuss joining a union. (b) (6), (b) (7)(C)) asked them to join the union and invited all the staff, including STNAs, to a union organizing meeting at (b) (6), (b) (7)(C)) on (b) (6), (b) (7)(C)) (b) (6), (b) (7)(C)) (b) (6), (b) (7)(C)) disclosed that (b) (6), (b) (7)(C)) met (b) (6), (b) (7)(C)) in the parking lot in or about late February or early March and had (b) (6), (b) (7)(C)) sign a petition. Shortly thereafter, (b) (6), (b) (7)(C)) again met

(b) (6), (b) (7)(C) in the parking lot and had (b) (6), (b) (7)(C) sign a union authorization card. Furthermore, on March 27, 2013, during the course of investigating these reports, another (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) at Country Meadow – revealed that during the week of March 18, 2013, three individuals (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) voluntarily approached (b) (6), (b) (7)(C) and during the course of those conversations stated that (b) (6), (b) (7)(C) initiated the Union organizing campaign.

II. ARGUMENT

The Board has outlined a two-pronged test to determine whether pro- or anti-union activities of supervisors interfere with employee free choice. *Harborside Health Care, Inc.*, 343 NLRB 906, 909-910 (2004). The factors are:

(1) whether the supervisor's pro-union conduct reasonably tended to coerce or interfere with the employees' exercise of free choice in the election. This inquiry includes: (a) consideration of the nature and degree of supervisory authority possessed by those who engage in the pro-union conduct and (b) an examination of the nature, extent, and context of the content in question.

(2) whether the conduct interfered with freedom of choice to the extent that it materially affected the outcome of the election, based on factors such as (a) the margin of victory in the election; (b) whether the conduct at issue was widespread or isolated; (c) the timing of the conduct; (d) the extent to which the conduct became known; and (e) the lingering effect of the conduct.

Harborside, 343 NLRB at 909; *Chinese Daily News and Communications Workers of America, AFL-CIO*, 344 NLRB 1071, 1072 (2005). Absent mitigating circumstances, the Board has found supervisory solicitation of an authorization card has an inherent tendency to interfere with the employee's freedom to choose to sign a card or not.¹ *Harborside*, 343 NLRB at 911 (supervisor's solicitation of authorization cards including the threat of job loss); *Chinese Daily*

¹ Supervisors have the power to affect the working life of the employee. Soliciting cards gives supervisors the opportunity to determine who is pro-union and who is not. When solicited, an employee will reasonably be concerned with making the "right" or "wrong" response and whether that response will be treated with favor or disfavor. *Harborside*, 343 NLRB at 911.

News, 344 NLRB at 1072 (supervisor solicited seven employees who signed authorization cards).

Given the timing of the (b) (6), (b) (7)(C) solicitation of authorization cards and the date the initial petition was filed in this case, it is clear that the showing of interest in support of the petition is invalid by reason of supervisory taint. Specifically, (b) (6), (b) (7)(C) a unit of only seventeen employees, actively solicited authorization cards, and even hosted a union organizing meeting at (b) (6), (b) (7)(C). As such, (b) (6), (b) (7)(C) solicitation on behalf of the Union was widely known among the small unit of 17 STNAs and arguably resulted in the signing of many, if not all, the union authorization cards. (b) (6), (b) (7)(C) activity in hosting a union organizing meeting at (b) (6), (b) (7)(C) magnifies the concerns regarding whether the subordinates' response was the "right" or "wrong" response. The extent of (b) (6), (b) (7)(C) solicitation is greater than that in *Chinese Daily News* (seven subordinates out of a bargaining unit of no fewer than 141).

Country Meadow was unaware of the facts revealing supervisory taint until March 22, 2013, so this Motion is timely even though the parties executed the Stipulated Election Agreement on March 21, 2013. *General Dynamics Corp.*, 213 NLRB 851 (1974); NLRB Caschandling Manual (Part Two) Representation Proceedings Sec. 11028.1 (party alleging supervisory taint must take early action on raising such allegations in a timely manner relative to gaining knowledge of the alleged conduct). Country Meadow is prepared to provide evidence in support of this motion as directed, in writing, by the Regional Director. *Globe Iron Foundry*, 112 NLRB 1200 (1955); NLRB Casehandling Manual (Part Two) Representation Proceedings Sec. 11028.1 (party should be directed, in writing, to present supporting evidence to the Regional Director within seven days of raising allegations of supervisory taint).

III. CONCLUSION

For the foregoing reasons, and pursuant to NLRB Rules and precedent, the Employer requests the Regional Director to undertake an investigation of the allegations of supervisory taint and upon a showing of such, to Dismiss the Petition on the grounds that the showing of interest to support the petition is invalid by reason of supervisory taint.

Dated: March 28, 2013.

A handwritten signature in black ink, appearing to read 'Craig M. Brown', is written over a horizontal line.

Craig M. Brown
Adam E. Primm
LITTLER MENDELSON, P.C.,
1100 Superior Avenue, 20th Floor
Cleveland, OH 44114
Telephone: 216.696.7600
Facsimile: 216.696.2038
Email: cmbrown@littler.com

Attorneys for Employer
COUNTRY MEADOW CARE CENTER

PROOF OF SERVICE BY E-MAIL

I am employed in Cleveland, Ohio. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1100 Superior Avenue, 20th Floor, Cleveland, OH 44114. On March 28, 2013, I served a true and correct copy of the following document(s):

EMPLOYER'S MOTION TO DISMISS PETITION

by e-mailing the document(s) to the following person(s) at the e-mail address(es) listed below:

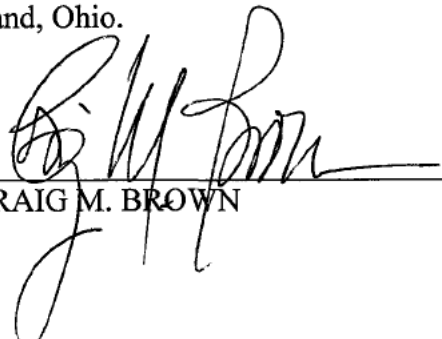
James D. Smith, Grand Lodge Representative
International Association of Machinists & Aerospace Workers, AFL-CIO, DL 54
Executive Plaza III
135 Merchant Street, Suite 265
Cincinnati, Ohio 45246-3734
Jsmith2@iamaw.org

Frederick J. Calatrello
Regional Director
National Labor Relations Board
Region 08
1240 East Ninth Street, Suite 1695
Cleveland, Ohio 44199-2086
Frederick.calatrello@nrlb.gov

Roberta Montgomery
National Labor Relations Board
Region 08
1240 East Ninth Street, Suite 1695
Cleveland, Ohio 44199-2086
Roberta.montgomery@nrlb.gov

I declare under penalty of perjury that the above is true and correct.

Executed on March 28, 2013, at Cleveland, Ohio.



CRAIG M. BROWN

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 8

COUNTRY MEADOW FACILITY OPERATIONS, LLC
D/B/A COUNTRY MEADOW CARE CENTER

Employer

and

Case 08-RC-099789

INTERNATIONAL ASSOCIATION OF MACHINISTS
&AEROSPACE WORKERS, AFL-CIO, DISTRICT
LODGE 54

Petitioner

AFFIDAVIT OF SERVICE OF: Decision and Order, dated April 17, 2013.

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **April 17, 2013**, I served the above-entitled document(s) by **regular mail** upon the following persons, addressed to them at the following addresses:

JAMES D. SMITH, GRAND LODGE
REPRESENTATIVE
INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS, AFL-
CIO, DL 98, LL 1403
EXECUTIVE PLAZA III
135 MERCHANT ST, STE. 265
CINCINNATI, OH 45246-3734

EDWARD J. KUSS , TERRITORY ORGANIZING
LEADER/GLR
INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS, AFL-
CIO, DISTRICT LODGE 4
EXECUTIVE PLAZA III
135 MERCHANT STREET, SUITE 265
CINCINNATI, OH 45246-3734

PHIL CRITCHER , Administrator
COUNTRY MEADOW FACILITY OPERATIONS,
LLC D/B/A COUNTRY MEADOW CARE CENTER
4910 ALGIRE RD
BELLVILLE, OH 44813-9263

CRAIG M. BROWN , ESQ., Attorney
LITTLER MENDELSON, P.C.
1100 SUPERIOR AVE E, FL 20
CLEVELAND, OH 44114-2518

April 17, 2013

Date

Regina Hibbitt, Designated Agent of NLRB

Name

Pegna Abbott

Signature

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 8**

COUNTRY MEADOW CARE CENTER

Employer

And

Case No. 8-RC-099789

**INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE
WORKERS, AFL-CIO, DISTRICT
LODGE 54,**

Petitioner

DECISION AND ORDER

A petition was filed under Section 9(b) of the National Labor Relations Act, as amended, (the Act), which was investigated and fully considered.

Pursuant to the provisions of Section 3(b) of the Act, the National Labor Relations Board, (the Board), has delegated its authority in this proceeding to me.

Upon the entire record in this proceeding, I find:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
2. The Union is a labor organization within the meaning of the Act and claims to represent certain employees of the Employer.
3. The Employer is engaged in the operation of nursing home at its facility located at 4910 Algire Road, Bellville, Ohio.
4. On March 6, 2013, the Petitioner filed the above captioned petition seeking to represent employees of the Employer.

5. On March 22, 2013 I approved a Stipulated Election Agreement for a unit of all full-time and regular part-time STNA employees, including STNA PRNs employed by the Employer at its Bellville, Ohio facility, excluding all office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act. The Election is scheduled for April 24, 2013.

6. On March 28, 2013 the Employer filed with the Region a MOTION TO DISMISS PETITION. The Motion asserts that (b) (6), (b) (7)(C) participated in the Union organizing, thereby tainting the Petitioner's showing of interest. The Employer argues that the petition should be dismissed because of (b) (6), (b) (7)(C) conduct.

Pursuant to the Case Handling Manual, (part two), Representation Proceedings, Section 11028.1, the Region reviewed the Employer's Motion and decided there was sufficient evidence to initiate an investigation to determine if supervisory taint took place during the Petitioner's organizing campaign.

That investigation disclosed that (b) (6), (b) (7)(C) is a supervisor within the meaning of Section 2(11) of the Act.¹ The evidence offered by the Employer establishes that (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) at the facility exercise independent judgment both when they evaluate employees and when they issue discipline to employees in the proposed bargaining unit. Moreover, during the afternoon and evening shifts (b) (6), (b) (7)(C), including (b) (6), (b) (7)(C), are the only supervisors in the facility.

The investigation further disclosed that (b) (6), (b) (7)(C) was heavily involved in the Union organizing efforts. (b) (6), (b) (7)(C) solicited employee support for the Petitioner by requesting employees sign a petition to support the Union, by asking employees to sign Union

¹ During the Region's investigation the Petitioner agreed with the Employer's assertion and stipulated that (b) (6), (b) (7)(C) is a statutory supervisor within the meaning of Section 2(11) of the Act.

authorization cards, and by hosting a union organizing meeting at (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C).

The proposed STNA bargaining unit consists of 15 employees. The investigation established that (b) (6), (b) (7)(C) solicited union authorization cards or urged support for the Union in conversations with at least 8 of the 15 employees in the proposed bargaining unit.

ANALYSIS

In *Harborside Healthcare, Inc.*, 343NLRB 906, 909, (2004) the Board established a two part test for assessing objectionable conduct by supervisors on behalf of a union:

- 1) Whether the supervisor's pro-union conduct reasonably tended to coerce or interfere with the employees' exercise of free choice in the election.

This inquiry includes: (a) consideration of the nature and degree of supervisory authority possessed by those who engage in the pro-union conduct; and (b) an examination of the nature, extent, and context of the conduct in question.

- 2) Whether the conduct interfered with freedom of choice to the extent that it materially affected the outcome of the election, based on factors such as (a) the margin of victory in the election; (b) whether the conduct at issue was widespread or isolated; (c) the timing of the conduct; (d) the extent to which the conduct became known; and (e) the lingering effect of the conduct.

In *Harborside*, the Board concluded that supervisory solicitation of authorization cards has an "inherent tendency to interfere with the employee's freedom to choose to sign a card or not." *Harborside*, at 911. See also *Chinese Daily News*, 344 NLRB 1072 (2005).

I find that (b) (6), (b) (7)(C) solicitation of support for the Union during the Petitioner's organizing campaign, when viewed in light of the first part of the *Harborside Healthcare, Inc.* test, constitutes supervisory taint. It is reasonable to conclude that (b) (6), (b) (7)(C) conduct tended to coerce or interfere with the employees' free choice in the election. This is especially clear when, as here, support for the Union was actively solicited by (b) (6), (b) (7)(C) (b) (6), (b) (7)(C). The evidence in this matter establishes that (b) (6), (b) (7)(C) actively solicited employee signatures on pro-union petitions and on union authorization cards, and that (b) (6), (b) (7)(C) hosted a union organizing meeting at (b) (6), (b) (7)(C). The evidence also establishes that, during the campaign, (b) (6), (b) (7)(C) engaged in direct pro-union contact with over half of the proposed bargaining unit. Accordingly, I conclude that the investigation has established supervisory taint sufficient to provide a basis to dismiss the Petition for that reason.

ORDER

IT IS HEREBY ORDERED that the petition be dismissed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by May 1, 2013. The

request may be filed electronically through the Agency's website, www.nlr.gov,² but may not be filed by facsimile.

Dated at Cleveland, Ohio, this 17th day of April, 2013.

/s/ Frederick J. Calatrello

Frederick J. Calatrello
Regional Director
National Labor Relations Board
Region 8

² To file the request for review electronically, go to www.nlr.gov, select **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.

FAX

Date April 19, 2013
(Corrected Election Notice)

Number of pages including cover sheet 3

TO: Phil Critcher
Country Meadow Care Center
Phone 419-886-3922
Fax Phone 419-886-0098
CC: Craig Brown, Attorney
Fax Phone: (216) 649-0509

FROM: NLRB
Phone 216-522-3716
Fax Phone 216-522-2418

REMARKS: ☒ **Urgent** ☐ For your review ☐ Reply ASAP ☐ Please Comment

PLEASE POST IMMEDIATELY NEXT TO ELECTION NOTICES.

TO: All Employees

FROM: Phil Critcher

DATE: April 19, 2013

**Re: COUNTRY MEADOW CARE CENTER
Case No. 08-RC-099789**

WE HAVE BEEN ADVISED THAT THE REGIONAL DIRECTOR HAS DISMISSED THE PETITION FILED BY INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 54. WE HAVE BEEN REQUESTED BY THE NLRB TO POST THIS NOTICE SO EMPLOYEES ARE MADE AWARE THAT THE ELECTION SCHEDULED FOR WEDNESDAY, APRIL 24, 2013, HAS BEEN CANCELED AND WILL NOT BE HELD.

Signed:

/s/ Phil Critcher

***** -COMM. JOURNAL- ***** DATE APR-19-2013 ***** TIME 12:01 *** P.01

MODE = MEMORY TRANSMISSION

START=APR-19 12:00

END=APR-19 12:01

FILE NO. = 234

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-NLRB REGION 8					

- *****

- *****

FAX

Date April 19, 2013
(Corrected Election Notice)

Number of pages including cover sheet 3

TO: Phil Critcher
Country Meadow Care Center
Phone 419-886-3922
Fax Phone 419-886-0098
CC: Craig Brown, Attorney
Fax Phone: (216) 649-0509

FROM: NLRB

Phone 216-522-3716
Fax Phone 216-522-2418

REMARKS: ☒ **Urgent** ☐ For your review ☐ Reply ASAP ☐ Please Comment

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I have read this statement consisting of _____ pages, including this page, I fully understand its contents, and I certify that it is true and correct to the best of my knowledge and belief.

Subscribed and Sworn To Before me at

This _____ day of _____, 199____.

Board Agent,
National Labor Relations Board